

REMARKS

Claims 1 and 3-23 are currently pending. Independent claims 1 and 22 stand rejected as being obvious over Owaki (U.S. Patent No. 6,195,538) ("Owaki") in view of Miyake et al (U.S. Patent No. 5,802,066) ("Miyake") and in further view of Logan et al. (U.S. Patent No. 6,931,451) ("Logan"). Applicant respectfully requests that the Examiner reconsider in view of the amendment and remarks herein. For the following reasons, Applicant submits that the present application is in condition for allowance.

A. Independent Claim 1 and its dependent claims

Applicant respectfully disagrees with the Examiner's rejection of claim 1 based on the cited references. The Examiner has confirmed that "the combination of Owaki and Miyake fails to teach wherein the bookmarked data being organized as individual data sets that each includes at least a program name song title and artist name associated with the broadcast and additional information and wherein the control unit search the additional information of the additional programs being broadcast using the search data and causing the received unit to select one of the additional program being broadcast when the additional information associated with eh additional program includes the search data." Office Action at 3. For this aspect, the Examiner relies on the disclosure of Logan citing particularly the combined disclosures at col. 8, lines 30-46, col. 9, lines 26-35 and col. 16 lines 10-31. Applicant submits that the Examiner has not set forth a *prima facie* case of obviousness as the Applicant's invention is not disclosed or rendered obvious in view of the relied on references.

Applicant respectfully reminds the Examiner that the Examiner bears the initial burden of demonstrating a *prima facie* case of obviousness. *In re Rinehart*, 531 F.2d 1048, 189 U.S.P.Q. 143 (C.C.P.A. 1976). A *prima facie* case requires,

*inter alia*, a showing of all of the elements of the claims in the prior art and some suggestion or motivation to modify or combine the references based upon the prior art or a general knowledge in the field. *In re Rouffet*, 149 F.3d 1350, 47 USPQ2d 1453 (Fed. Cir. 1998); See MPEP § 2143. Significantly, for these prerequisites, it is not proper to read statements or even imply them from a reference out of context. The reference must be considered as a whole.

Applicant submits that when properly considering the *Logan* reference as a whole, the cited portions of *Logan* do not supply the missing feature but actually teach away from the Applicant's invention.

Significantly, the invention of *Logan*, as described therein, is to allow:

a listener or viewer to enjoy selected, previously broadcast radio or television programs or program segments at a later [time] when it is more convenient or desirable. In particular, previously broadcast musical programming segments (here referred to as "songs") can be easily identified and replayed.

Col. 15, lines 8-13. Indeed, the *Logan* invention is intended for providing "alternative methods for distributing audio information." *Logan*, col. 2, lines 25-29. In this context, as cited by the Examiner, *Logan* discloses a system having a "selection and playback mechanism 121 [that] preferably includes means for displaying a listing of the available programs and program segments stored in local storage unit..." *Logan*, col. 16, lines 10-14. These segments were previously received and compared to identification signals by the receiver and stored in the database of segments. *Logan*, col. 10, lines 40-42.

These relied-upon aspects of *Logan* do not describe Applicant's claimed invention. Significantly, as it relates to the feature at issue, Applicant's receiver invention includes:

wherein the control unit sequentially searches the additional information of additional programs being broadcast using the search data and causes the receiving unit to select a one of the additional programs being broadcast when the additional information associated with the additional program includes the search data.

Simply put, in view of *Logan's* stated purpose of time-shifting, so that previously broadcast programs may be later selected and played back (*i.e.*, a time other than when it is being broadcast), it is clear that the system of *Logan* is not Applicant's receiver unit searching invention that selects one of additional programs being broadcast when the additional program has the data being searched.

For at least this reason, Applicant submits that the combination of references as relied on by the Examiner does not set forth a *prima facie* case of obviousness. Similarly, the claims that depend from claim 1, which incorporate that subsection matter, are also in condition for allowance. Therefore, Applicant requests that the Examiner withdraw the rejection.

B. Independent Claim 22 and its dependent claim

The Examiner's rejection of independent claim 22 is essentially the same rejection as the one made for independent claim 1. The discussed feature of claim 1 may be compared with the subject matter of amended independent method claim 22. For example, claim 22 defines a method including, among other features:

tuning to and notifying of detection of a program being broadcast, so that a user may perceive it during its broadcast, when the search data is included in the additional information of the program.

The system of *Logan* is not Applicant's receiver unit searching method invention that tunes to and notifies of detection of a

program being broadcast when the additional program has the data being searched. For at least these reasons, this claim and its dependent claim are in condition for allowance as all of the features of the claims are not disclosed in the cited art. Thus, Applicant requests that the Examiner withdraw the rejections of claims 22 and 23.

C. Conclusion

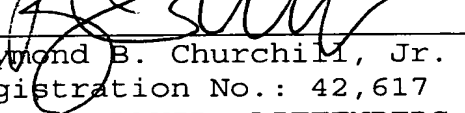
As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

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